

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD ROY SCOTT,

Petitioner,

V.

PACIFIC COUNTY,

Respondent.

CASE NO. 3:16-CV-05791-RJB-JRC
REPORT AND RECOMMENDATION
NOTED FOR: OCTOBER 28, 2016

The District Court has referred this petition for a writ of habeas corpus to United States Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. This matter comes before the Court *sua sponte*.

On September 16, 2016, the Clerk of the Court received a proposed habeas corpus petition, filed by petitioner Richard Roy Scott, a bar order litigant. Dkt. 1; *See* April 5, 2005 Bar Order, Case No. 04-5147, Dkt. No. 170. Petitioner also filed a declaration, stating that he “filed this Habeas and it was dismissed [without] prejudice.” Dkt. 2. The Court notes that it appears that petitioner recently filed a habeas corpus petition under a similar set of facts that was

1 dismissed without prejudice on July 28, 2016. *See Scott v. Strong*, Case No. 16-5218-RBL-
 2 DWC.

3 The April 5, 2005 Bar Order states, in relevant part:

4 (2) In all future cases, the plaintiff shall submit a signed affidavit,
 5 along with the proposed complaint, verifying under penalty of
 6 perjury that none of the issues raised in the proposed complaint
 7 have been litigated in the past by the plaintiff.

8 (3) An application for *in forma pauperis* status, the affidavit
 9 required in Item 1 above, and the proposed complaint shall be
 10 forwarded to the chief judge of the district by the clerk's office for
 11 review. The chief judge shall determine whether the action should
 12 be allowed to proceed. Plaintiff must provide full and complete
 13 disclosure of all financial information in support of any *in forma*
 14 *pauperis* application.

15 *See April 5, 2005 Bar Order, Case No. 04-5147, Dkt. No. 170 at 4.*

16 Petitioner has paid the filing fee with his proposed habeas corpus petition, *see* Dkt. 1,
 17 thus the restrictions applicable to any proposed *in forma pauperis* action are not in play here.
 18 However, the undersigned recommends that the proposed habeas corpus petition and declaration
 19 (Dkts. 1, 2) be referred to Chief Judge Martinez for review, pursuant to the April 5, 2005 Bar
 20 Order. *See id.* at 4.

16 CONCLUSION

17 The undersigned recommends that the proposed habeas corpus petition and declaration
 18 (Dkts. 1, 2) be referred to Chief Judge Martinez for review.

19 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have
 20 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.
 21 6. Failure to file objections will result in a waiver of those objections for purposes of *de novo*
 22 review by the district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit
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1 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on
2 **October 28, 2016** as noted in the caption.

3 Dated this 6th day of October, 2016.

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6 J. Richard Creatura
7 United States Magistrate Judge
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